

## *Executive Summary*

**T**he Sacramento-San Joaquin River Delta is a treasured and imperiled resource. And CALFED has been the best hope to restore it.

The ambitious state-federal partnership is proof that political will and leadership can resolve seemingly intractable conflicts. And yet in recent years, the program also has demonstrated the propensity for rudderless bureaucracies to get caught in inescapable eddies.

It is not too late for the Delta, or for CALFED. But restoring the estuary and managing the resource in a sustainable manner will require continuous political support, expert leadership, and smart management.

If California is to prosper, California's leaders at a minimum must provide the basic infrastructure that makes the state functional, healthy and attractive. Those minimum obligations include a comprehensive strategy for providing water while protecting water quality, meeting water needs while protecting the water ecosystem. The Governor is responsible for developing that strategy and the Legislature is responsible for reviewing and enacting such a policy into law.

The Delta is so critical to California's future that no water policy will be successful if the estuary is not restored. And for CALFED to succeed, the program will need to be integrated into a statewide strategy – with similar, but statewide objectives – for efficiently meeting water supply and environmental goals.

In reviewing the governance of CALFED, and the role of the California Bay-Delta Authority, the Commission examined the program's mission and vision and the duties assigned to the CBDA. The CALFED Record of Decision signed in 2000 was a monumental accomplishment, but it was not the final accomplishment. Many difficult decisions will have to be made about how to best use and restore the Delta. The ROD is not a self-implementing document, but a commitment to move from broad goals to specific strategies and measurable performance.

For CALFED to be successful and for any governance structure to be effective, the administration must resolve the major disagreements that

have slowed or stalled progress toward the four main objectives of water supply reliability, water quality, ecosystem restoration and levee stability.

To resolve these disputes and to build public support for financing these activities, a strong leader with the delegated authority of the Governor must have plenary responsibility for CALFED. That leadership must be successful in many venues: with Congress and the Legislature, with partners in the federal agencies, and within the state bureaucracy.

Similarly, state agencies with implementing duties must be focused like never before on performance, and on using science and data to guide decisions and revise strategies. And government overall must improve how it engages the public – because Californians do have good ideas, because their concerns do matter, because their support is needed, and because conflicts among the stakeholders must be resolved, as well as the conflicts among government agencies.

Ironically, for all of the frustration with CALFED, in many respects the agencies are taking on governance and management issues that in other parts of government are just ignored – vague goals and objectives, programs undisciplined by data, interagency disputes, an unwillingness of beneficiaries to pay.

The CALFED cup really is half full. The program's founders put forth a thoughtful vision of collaborative problem-solving and balanced progress. They wanted to coordinate governmental actions and push progress toward performance measures. They wanted CALFED to be transparent and accountable to the public. And in managing a complex and largely mysterious resource, the founders wanted CALFED to adapt to new challenges and new knowledge.

The vision is not flawed, but the implementation effort has drifted off course. The executive director of the South Florida Ecosystem Task Force was right when he congratulated California for pushing the pause button and assessing how CALFED itself could be restored in order to resume progress toward restoring the Bay-Delta.

This opportunity for “adaptive governance,” should not only fix what is broken, but reinforce what has worked well. Former Secretary of Resources Douglas Wheeler said that CALFED was predicated on four principles: 1) good communication; 2) active and effective involvement of stakeholders; 3) reliance on science to make decisions; and, 4) sustained and personal leadership. Most of the current problems can be traced back to violations – even brief ones – of those principles.

In the current structure, the personal and executive leadership for California that delivered the ROD was reassigned to a new 24-member, state-federal, official-public, executive-legislative, voting-nonvoting board.

The California Bay-Delta Authority board was given the coordination responsibilities of an earlier policy group that was co-chaired by a high-ranking state and a high-ranking federal official. But unlike the policy group, the Legislature explicitly denied the board actual authority over the agencies tasked with implementing CALFED. Congress, in turn, only allowed federal agencies to participate in CBDA as non-voting members.

The historic and lead responsibility for CALFED that was previously shouldered by the Secretary of Resources was implicitly passed to the executive officer of the CBDA board. But the lines of accountability between the executive director and the administration, between the executive director and the board, and between the board and the administration appear to be more a matter of opinion than fact.

The expectations for the board went beyond overall leadership and coordinated management to include public involvement, conflict resolution and independent oversight. The expectations for CALFED are high enough without constructing a governance system that cannot perform its mission, let alone withstand the hurricane-force political pressures of water policy in California.

One lesson from the CALFED experiment is that process and structure cannot substitute for leadership or authority. California also has learned that while the federal government is an important partner in restoring the estuary and meeting water needs, California's leaders must be prepared to carry whatever part of the load necessary to get the job done.

To bolster governance, policy-makers should provide for the consolidated executive leadership that is necessary to manage such a complex endeavor. The administration needs to develop a cohesive management team of department leaders and strategically involve regulatory agencies. And there should be the appropriate boards for public and expert review and external oversight. Each of these governance tools need to be honed to their unique task, and used appropriately to accomplish shared goals.

Over the last four months, the Commission was assisted greatly by public officials, stakeholders, academic experts and members of the public, who without exception believed that resolving the conflicts in the estuary should be a priority. The Commission appreciates their assistance and commends their contributions to California. The Commission offers the following recommendations toward improving the leadership and management of the CALFED program.

## ***Vision and Mission***

**Finding 1: Growing disagreements about CALFED's vision and mission and the role of the Bay-Delta Authority are jeopardizing a critical effort to meet California's water needs and restore the Bay-Delta estuary.**

California still faces difficult decisions about how it will provide for growth, while managing and even restoring natural assets. A decade ago, strong leaders used the crisis of drought and ecological collapse to forge the best agreement possible. The current troubles in the Delta – including fish declines and levee concerns – make it essential that today's leaders confront the remaining conflicts and fully resolve them. To be successful, however, the efforts to restore the Delta must be integrated into statewide and regional strategies for providing reliable and safe water supplies. Better coordination between the efforts in the estuary and efforts elsewhere will allow CALFED leaders to focus on the most critical problems endemic to the Delta.

***Recommendation 1: State and federal leaders need to refine the strategy for developing and implementing long-term and sustainable solutions to the Bay-Delta. That strategy should be integrated into a comprehensive water policy for California that encourages the best use of a scarce and essential resource. Specifically:***

- ❑ ***A comprehensive state water strategy.*** Sustained progress in the Delta will require a comprehensive strategy that provides regions and local water suppliers with a clear sense of how California should efficiently and in a sustainable way satisfy future water demands.
  - ✓ The administration should articulate how the strategy outlined in the 2005 California Water Plan will guide CALFED's leadership.
- ❑ ***Specific goals for a sustainable Bay-Delta.*** In the context of the state plan, and using the principals of the ROD as a starting point, the Governor and the Secretary of the Interior, should refine immediate and long-term goals for restoring the estuary and ensuring that water needs will be met.
  - ✓ State and federal officials – working with the leadership of the involved agencies and the stakeholders – should identify the most important areas of disagreement and tailor a process – using analysis and negotiations – for resolving those disputes.
  - ✓ While this work can begin immediately, a primary function of the executive leadership described in Finding 2 will be building and maintaining consensus on what CALFED must accomplish and the best way to achieve those goals.

**Legislative Role in Mission and Vision: Policy-makers must adopt clear and specific goals for the CALFED program and fortify those goals with budget and legislative authority.**

- ❑ **Set clear, specific goals for CALFED.** The Legislature must put in place goals that communicate to the implementing agencies and the stakeholders the State's priorities and preferred strategies for restoring the estuary and meeting water needs.
- ❑ **Ensure the implementing agencies have sufficient authority and resources to succeed.** The Legislature must embed the CALFED goals in the authorizing statutes of the implementing agencies, empower those agencies to achieve their missions, and provide sufficient staff and funding to succeed.

## ***Leadership***

**Finding 2: The leadership of CALFED is diffused and detached from the authority of the Governor, and as a result cannot govern the program or be held accountable for outcomes.**

Leadership is given the credit for CALFED's early progress and blame for the lack of recent progress. Clearly, the job will require a strong and talented leader. But of equal importance, the governance structure must enable that leader to get the job done. Authority must be linked with responsibility and consolidated to make the cross-cutting decisions that will be essential if CALFED is to succeed. Good leaders – who are held accountable for specific outcomes – will need public input, will need to work collaboratively, and will need to use conflict resolution to achieve stated goals.

***Recommendation 2: The California Bay-Delta Authority as a coordinating entity should be replaced by a leadership structure that has the authority to accomplish CALFED's mission. The Governor should ensure a high-caliber individual is in place to lead the initiative. The enacting legislation should accomplish the following:***

- ❑ ***The Secretary of Resources should be responsible.*** The secretary has other responsibilities, but the early days of CALFED showed that the secretary, with the assistance of an undersecretary dedicated full-time to the project, can provide the necessary leadership.
- ❑ ***Restore the policy group.*** A senior management team comprised of the primary state and federal departments – and the lead scientist – should meet regularly to ensure true integration. The Secretary of Resources and the U.S. Secretary of Interior or designee should co-chair the group and participate as necessary to resolve those conflicts or approve those actions that could not be managed at a lower level.

- ❑ ***The Policy Group should be focused but flexible.*** Key agencies include the state Department of Water Resources, Department of Fish & Game, Environmental Protection Agency, State Water Resources Control Board and the federal Fish & Wildlife Service, Bureau of Reclamation, U.S. Environmental Protection Agency, Army Corps of Engineers and the National Marine Fisheries Service. The group also could be expanded as necessary to include state or federal agencies that could contribute to Bay-Delta solutions.
- ❑ ***Conduct an annual Bay-Delta summit.*** The policy group should meet in public at least once a year to explain its activities and respond to public comments and questions. The summit should provide a substantial opportunity for public understanding of progress, challenges and the latest scientific findings regarding the Bay-Delta.
- ❑ ***Reassign CBDA staff.*** The staff capacities of the CBDA are essential to orchestrating the CALFED effort. The staff should be assigned to the policy group, under the direction of the secretary. A performance-based strategy for deploying the staff is described in Finding 3.

**Legislative Role in Leadership:** To ensure public support and political capital, policy-makers should develop mechanisms that ensure consistent and meaningful involvement in CALFED.

- ❑ **Establish a joint state-federal Bay-Delta coalition.** State and federal lawmakers should form a bipartisan caucus focused on the estuary. They should work to develop a common understanding of issues, develop consensus legislation needed to authorize improvements and seek the appropriate funding.
- ❑ **Convene an annual Bay-Delta conference for policy-makers.** Lawmakers should convene an annual conference that brings together local, state and federal elected officials to increase awareness of the estuary, the gravity of its problems and the potential for reform.

## ***Performance Management***

**Finding 3: CALFED is not managed to improve performance, incorporate the best science into management decisions, or create accountability for outcomes.**

Reversing the unsustainable trends in the Delta is an essential and extraordinarily difficult task. For some of the problems, the options are well-known but there is disagreement on the course of action. But the Bay-Delta also has problems for which feasible solutions must still be found. As a result, “governing” CALFED will require a combination of analysis, negotiation and creativity. Managing these efforts will require a performance-based culture, and the capacity to develop new knowledge

and use science effectively in decision-making. It also will require forming more flexible, inter-agency workgroups that are focused on specific projects and goals.

***Recommendation 3: Implementation of CALFED must be strategic, performance-based, and accountable for outcomes. The Governor and Legislature should implement the following recommendations:***

- ❑ ***Charter workgroups.*** The Secretary of Resources, in coordination with the U.S. Interior Secretary, should charter state-federal workgroups to implement the program components of CALFED. Each workgroup should have a designated leader, clear mission and be held accountable for progress.
- ❑ ***Employ strategic management practices.*** The Secretary, in coordination with the U.S. Interior Secretary, should require each department and workgroup to use strategic planning, performance contracts, performance measures and other strategic management practices to promote progress.
- ❑ ***Provide annual progress reports and updated strategic plans.*** Each workgroup and department should report annually on progress and provide updated strategic plans that clearly indicate how to address deficiencies, enhance efficiencies and improve outcomes. This public reporting should be part of the Bay-Delta Summit described in Recommendation 2.
- ❑ ***Appoint the lead scientist as a member of the CALFED executive team.*** The Secretary, in consultation with the U.S. Interior Secretary, should appoint a lead scientist. The lead scientist should be charged with assisting departments and workgroups to integrate science-based adaptive management into CALFED.
- ❑ ***Retain and Reform the Independent Science Board.*** The board should be charged with monitoring the use of science-based practices, adaptive management and other state-of-the-art strategies to meet goals. Members should be appointed by the Governor and the Legislature, in consultation with the U.S. Interior Secretary, based on their credentials. The lead scientist should be a member of the board and serve as a bridge between the board and CALFED administrators.
- ❑ ***Prepare an annual report.*** The board should report to the public and Legislature on the adequacy of science-based adaptive management in CALFED and offer recommendations for improvements.

**Legislative Role in Performance Management:** As a condition of ongoing funding, the Legislature should create incentives for progress.

- ❑ **Require performance contracts for CALFED leadership.** In approving budget authority for the Resources Agency and the implementing agencies, the Legislature should require performance contracts for exempt appointees that outline goals, establish performance metrics, require progress reports and include provisions for continued employment.
- ❑ **Tie on-going funding to the use of performance measures.** The Legislature should bolster its requirement for performance measures. State funding and expenditure authority for CALFED should be limited to programs with performance measures.

## ***Public Involvement***

**Finding 4:** The current CALFED governance structure does not efficiently and meaningfully involve the broader public, provide the necessary transparency in the decision-making process or assertively resolve conflicts.

While leaders must have the authority to get the job done, they also must be held accountable for outcomes. In the quest to efficiently meet water needs and restore the Bay-Delta estuary, leaders will need to meaningfully involve direct stakeholders and the broader public. CALFED's leaders correctly realized that unilateral decisions often result in lawsuits, and that regulatory tools alone are not adequate for the task of restoration. While CALFED has been religious about public involvement, how the public is involved needs to be improved if the program is to achieve its broadly stated goals.

***Recommendation 4:*** The State must provide more meaningful opportunities for the public and stakeholders to participate in the CALFED process to raise awareness, increase transparency, reduce conflicts and provide accountability. The State should:

- ❑ ***Build public awareness.*** The State should utilize its museums and universities, as well as non-profit organizations and the media to engage and educate all Californians on the critical role of the Delta in state water management. Additionally, the State should develop a name that is more descriptive of the program's importance.
- ❑ ***Provide more meaningful public involvement in CALFED.*** The State should establish protocols that provide meaningful opportunities for public scrutiny of substantive issues. The State must provide easy access to critical information and an effective means of communication to ensure that the public is being heard.
  - ✓ ***Regional meetings and local forums.*** CALFED leaders must look beyond Sacramento by holding regional meetings and



- local forums to understand and incorporate regional concerns that impact Delta decisions.
- ✓ **Electronic communication.** To ensure public input, the State should take full advantage of communication technologies to create an ongoing dialogue including interactive use of the Internet and electronic communication.
  - ❑ **Establish a state advisory committee.** In collaboration with federal CALFED partners, the Legislature should establish a committee under state law to advise and make recommendations to the Governor, the Legislature, the U.S. Interior Secretary, and the implementing agencies. The committee should replace the federally chartered Bay-Delta Public Advisory Committee.
    - ✓ Members should include stakeholders representing environmentalists, agricultural and urban water users, tribes, rural counties, environmental justice representatives, the business community and regional representatives.
    - ✓ The state advisory committee should reconstitute the nine BDPAC subcommittees into regional subcommittees that address a range of issues in the watershed.
  - ❑ **Develop a process and the capacity for conflict resolution among stakeholders.** Public involvement in conflict resolution means resolving disputes among stakeholders and interest groups that prevent the State from moving forward.
    - ✓ CALFED officials should tap a subset of the state advisory committee to provide conflict resolution.

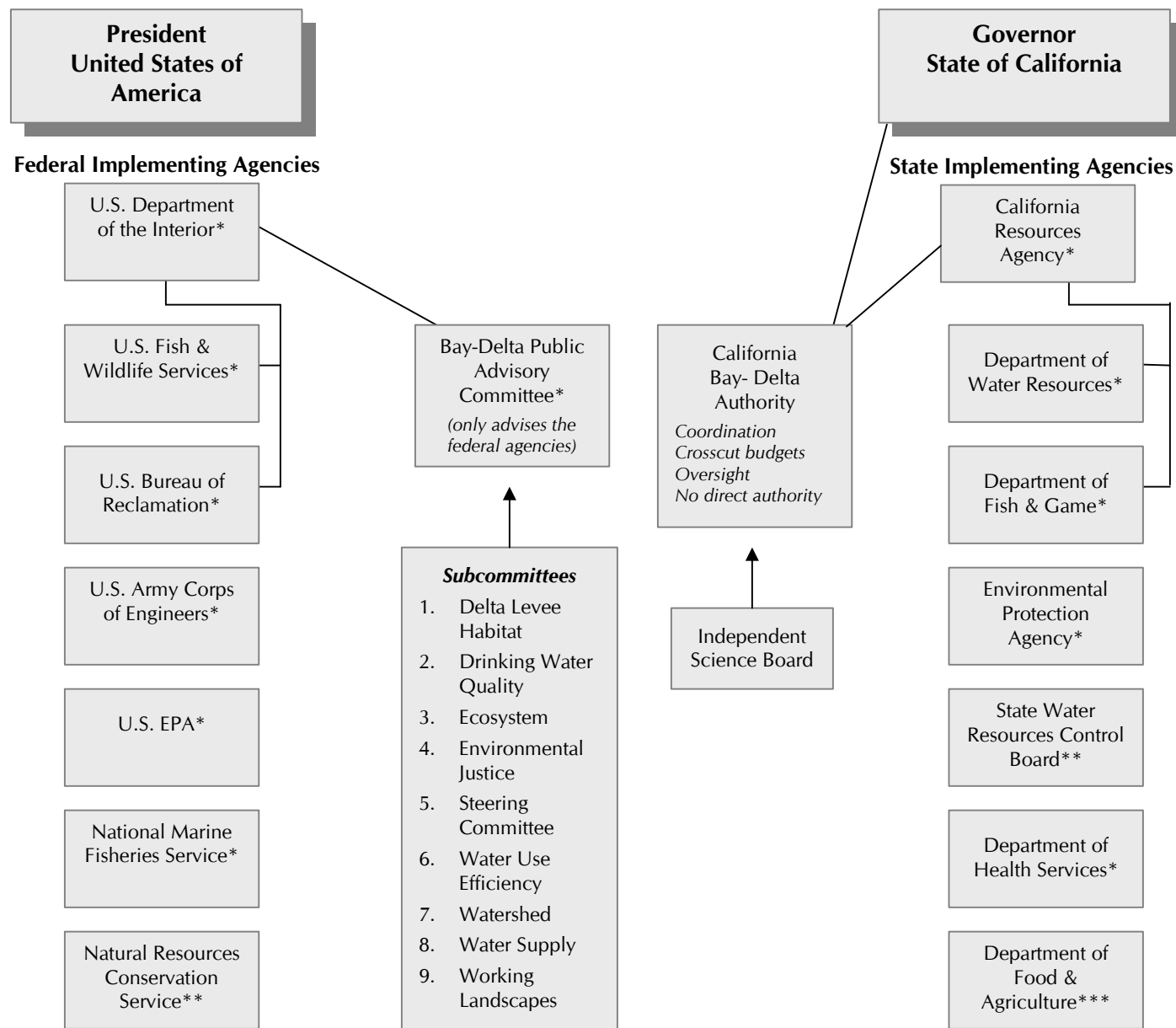
**Legislative Role in Public Involvement: The Legislature should establish an independent oversight body to provide expert guidance to policy-makers on what is working, what is not and where changes are necessary. The oversight body should:**

- ❑ **Find facts.** Policy-makers need clear, factual information upon which to base funding decisions, improve accountability and guide statutory changes.
- ❑ **Convene hearings.** Through public discussions, the oversight committee can inform the public and policy-makers on the degree of progress and strategies to enhance progress.
- ❑ **Recommend legislative changes.** Through annual reports, the oversight body should recommend legislative and other actions to support improved outcomes.

## ***Charting Dysfunctional to Functional***

The following pages include two organizational structures – the current organizational structure for CALFED and the Commission’s recommendations for a revised structure.

## Current CALFED Organization Structure

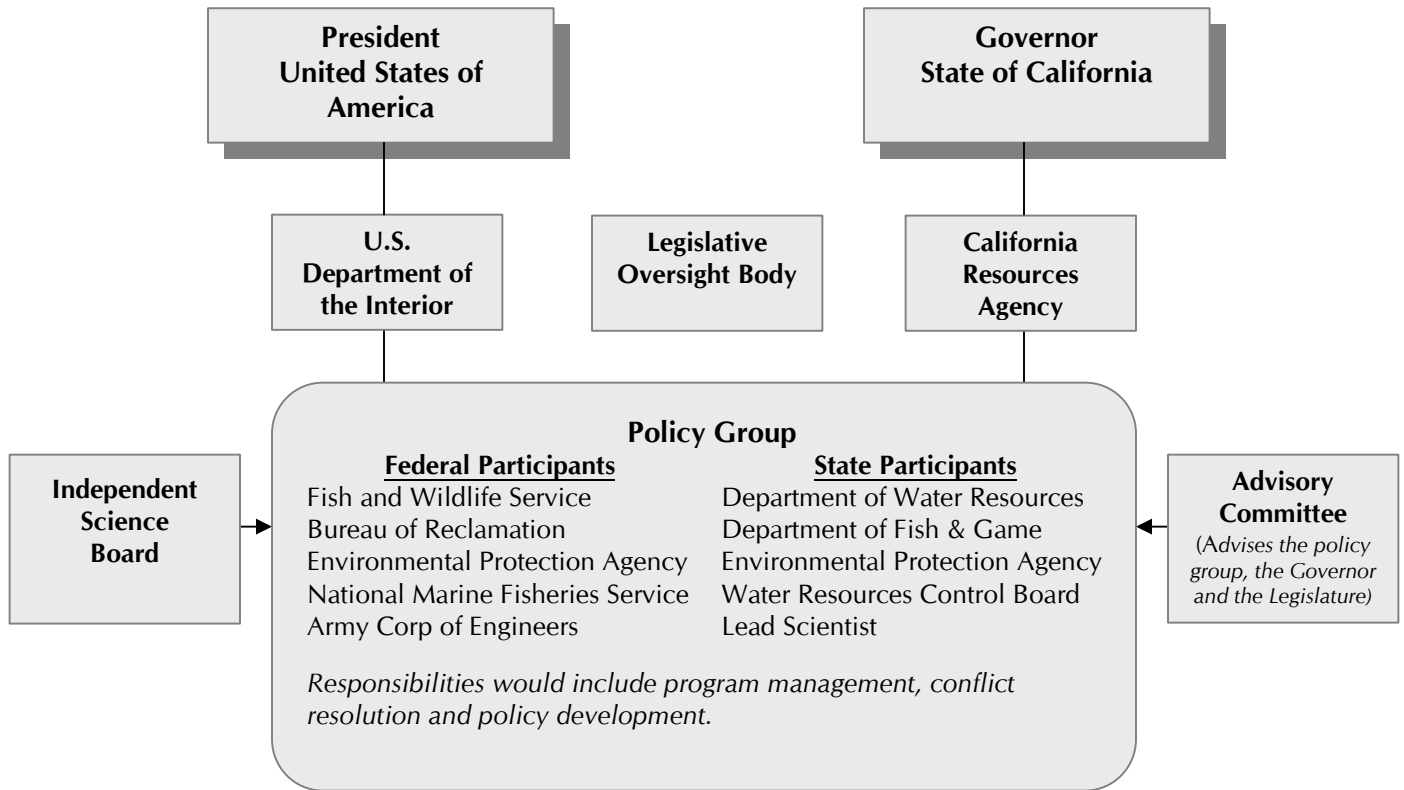


The current organizational structure of the CALFED program is challenging to depict in a chart because the structure is convoluted and reporting lines are not clear. For example, the chair of the CBDA is appointed by the Governor in consultation with the Secretary of the Interior, yet the CBDA was created within the Resources Agency. One member of the Bay-Delta Public Advisory Committee is selected to be a member of the CBDA, but the current BDPAC charter states that the role of BDPAC is to advise the federal government. Currently the BDPAC participant on the CBDA also was appointed as chair of the CBDA.

The organizational chart alone does not capture the greatest dysfunction of the existing structure, the lack of clear assignment of authority. The CBDA was not given the authority to implement the CALFED program and it is not clear within the implementing agencies who is in charge of CALFED implementation.

Implementing agencies that are represented on the CBDA board are depicted with one asterisk (\*). The Natural Resources Conservation Service and the State Water Resources Control Board (\*\*) are implementing agencies but are not represented on the CBDA board. The California Department of Food & Agriculture (\*\*\*) is represented on the CBDA, but is not an implementing agency.

### Proposed CALFED Organization Structure



The Commission's recommendations would separate and clarify the roles of management, public involvement and legislative oversight. The new structure would focus leadership authority, and on the state side would provide a direct line of accountability to the Governor. The recommended structure would encourage more integration among departments and increase accountability through the traditional government hierarchy. The structure would fortify public involvement by re-chartering the public advisory committee as a state entity to advise both state and federal agencies, the Governor and the Legislature. And while there is more than one model for legislative oversight of CALFED, the key purpose is to provide external and expert information to the public and policy-makers.

